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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

STEPHEN PIERCE; and TAMARA PIERCE,

Civil No. 07-3076-CL

Plaintiffs,

ORDER

v.

PALISADES COLLECTION LLC; et al.,

Defendants.

PANNER, District Judge:

Plaintiffs have filed a motion for dismissal (#49) of this action against defendant Palisades Collection, LLC, with prejudice and without costs to either party. No response has been received from defendant.

I. DISCUSSION

After a defendant has filed an answer or motion for summary judgment, an action may be dismissed voluntarily at plaintiff's request only by order of the court and "on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). In the Ninth Circuit, "Although costs and attorney fees are often imposed upon a plaintiff who is granted a voluntary dismissal under Fed.R.Civ.P. 41(a)(2), no circuit court has held that payment of the defendant's costs and attorney fees is a prerequisite to an order granting voluntary dismissal." Stevedoring Servs. of Am. v. Armilla Int'l B.V., 889 F.2d

919, 921 (9th Cir. 1989) (and cases cited); Puerto Rico Maritime Shipping Auth. v. Leith, 668 F.2d 46, 51 (1st Cir. 1981) (cited with approval by Stevedoring Services) [district court did not abuse its discretion in granting voluntary dismissal without imposing costs and attorney's fees]; 9 Charles Alan Wright & Arthur Miller, Federal Practice and Procedure § 2366 (2d ed. 1995).

Here, plaintiffs state in their motion that dismissal shall be with prejudice and without costs to either party.

The court finds that, in the circumstances, this action should be dismissed with prejudice and without costs imposed.

II. ORDER

For the foregoing reasons, plaintiffs' motion for dismissal of action as to defendant Palisades Collection, LLC (#49) is granted; this action is dismissed with prejudice and without costs imposed on either party.

DATED this 1 day of July, 2009.


UNITED STATES DISTRICT JUDGE